



State of Utah
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF WATER RIGHTS

July 23, 1996

Michael O. Leavitt
Governor
Ted Stewart
Executive Director
Robert L. Morgan
State Engineer

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RECEIVED

OCT 17 1996

WATER RIGHTS
SALT LAKE

Dave Sundberg
HC 72 Box 1
Malta, ID 83342

Dear Mr. Sundberg,

It has come to our attention that Clear Creek is now on turns in Utah. I understand that the turn schedule was set up by Vern Kempton, the water commissioner, according to the provisions of the Christensen Decree. The historical practice during the period of turns has been that, except when it was his turn, each water user would take his dam out of the stream and allow any leakage or return flows to flow unhindered down the creek for watering livestock.

It is reported to us that you have constructed a dry dam in the creek and are diverting water outside of your watering turn. According to the decree cited above, this is an illegal diversion of water. By this letter, I am instructing you to remove or open your dam so that the flow of Clear Creek bypasses your diversion except during your turn as scheduled by the commissioner.

I would also remind you that under Utah law, only those water rights that list your point of diversion may be diverted at your diversion dam. If you desire to divert another water user's rights at your diversion, a change of point of diversion and a change of place of use must be submitted and approved by the State Engineer. Where this arrangement will not be permanent, a temporary change application for these purposes may be filed each year. If the change involves shares in an irrigation company, the company must be the party that signs and submits the change to the Division of Water Rights.

If you have any questions concerning these issues, please contact Bob Fotheringham, Regional Engineer, at 752-8755 or me at 538-7380.

Sincerely,

Lee H. Sim, P.E.

Assistant State Engineer
for Distribution and Adjudication

cc: Bob Fotheringham
Vern Kempton

